

Minneapolis City Planning Department Report

Waiver from Moratorium Application

Date: 10-15-02

Applicant: Taher Ibrahim d.b.a. Gas N' Snack

End of 60 Day Decision Period: 11-30-02

Address Of Property: 2606 Penn Avenue North

Contact Person And Phone: Taher Ibrahim 612-210-8026

Planning Staff And Phone: Gary Dorek 612-673-2587

Ward: 3 **Neighborhood Organization:** Jordan Area Community Council

Existing Zoning: C1

Proposed use: Existing combination gas station and convenience store

Reason For Waiver: The site is located in the area of a moratorium on establishment or expansion of any use or development in areas along West Broadway Avenue; and also captured by a moratorium on establishment or re-establishment of convenience/grocery stores in the C1 districts between Penn & Lyndale Avenues North and 26th & 44th Avenues North.

Appropriate Section(s) of the Zoning Code: Chapter 529

Background: The zoning office has indicated that the site is largely in compliance with a site plan approved on 12-04-87 (PR-131). However, the landscape materials shown on the approved site plan were never installed, or have died since they were installed. The City Council revoked the licenses of the business in February of 2002, due to a long history of problems and violations (see attached license and police call report summaries). The previous owner has sold the business to the applicant. The License Department has proposed a set of 18 conditions for the applicant to sign and implement (attached), which they believe would allow granting of required business licenses.

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Site Analysis

Investigation by Licenses Department

Neighborhood Review

Memos and correspondence from licenses and other City department regarding problems with the previous owner and operations are attached. The site and building appear to be in good condition, and the zoning office has indicated that the site is largely in conformance with an approved site plan. However, the landscape materials shown on the approved site plan were never installed, or have died

since they were installed. The applicant should be required to provide a landscaping plan that at least meets the amount of landscape materials shown on the plan approved on 12-4-87. The neighborhood has not submitted a recommendation regarding the waiver.

Limited Site Plan Review Standards (If Warranted):

The landscaping approved in PR-131 on 12-04-87 should be installed to enhance compatibility with the surrounding residential uses.

Findings:

Section 576.50 provides that in cases of hardship the City Council may grant a waiver of all or a portion of the applicable restrictions as provided for in Chapter 529 of the zoning code. A waiver may be granted where the City Council finds substantial hardship caused by the restrictions and finds that the waiver will not unduly affect the integrity of the planning process or the purposes for which the interim ordinance is enacted.

Hardship: The waivers are required in order for the business to apply for required operating Licenses.

Affect on planning process: Planning staff working on the West Broadway study has indicated that the site is within the study area, but is not located directly on West Broadway Avenue. Staff has further indicated that the existing C1 zoning of the site would not be changed as a result of the study. A convenience facility existing when the new zoning code was adopted by the City Council is allowed as a conditional use in the C1 zoning district. Construction of a new store would not be allowed in the C1 zoning district. The moratorium on convenience/grocery stores in the C1 zoning district between Penn & Lyndale Avenues North and 26th & 44th Avenues North, was established to allow study of the potential negative impacts of these uses. Planning staff has not yet begun the process of conducting the study, but the site has been used for at least the past 15 years as a combination convenience facility. Addition of landscape materials required in PR-131, and implementation of the 18 proposed License conditions (attached) should minimize negative impacts on the surrounding area.

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Recommendation Of The City Planning Department:

The City Planning Department recommends that the City Council adopt the above findings and **approve** the application for waiver of the West Broadway Avenue moratorium; and **approve** the application for waiver of the moratorium on convenience/grocery stores in the C1 zoning districts, on the conditions that the applicant receive Planning staff approval of compliance with the landscaping requirements.